REMARKS

With entry of this amendment claims 1-3, 9, 12 and 24 remain pending in the application. The remaining claims have been canceled as being directed to nonelected species. Applicant reserves the right to secure protection to the subject matter of the canceled claims through continuing application practice. Support for the amendments to independent claim 1, the only pending independent claim, is found in the specification at page 9, lines 3-11, with respect to a precondition to obstructive hydrocephalus symptoms being hemorrhage of a cerebral blood vessel. The remaining amendments to claim 1 are fully supported by the claims as originally filed and accordingly it is submitted that no new matter has been added to the application by way of these amendments. The remainder of the amendments to the pending claims are provided not to change the scope of the claims but rather provide a degree of clarity in order to overcome the outstanding claim rejections under 35 U.S.C. §112, second paragraph. Here again, it is submitted that no new matter has been added by way of these amendments.

Currently claims 1-3, 9, 12 and 24 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The basis of this rejection is articulated in Paper No. 20081205 spanning pages 2-4. Based on the above amendments, these rejections are submitted to have been overcome.

Additionally, pending claims 1-3 stand rejected under 35 U.S.C. §102(b) as anticipated by Naff et al. with respect to urokinase, Wright et al. with respect to urokinase, and Hanley et al. with respect to urokinase or recombinant tissue plasminogen activator. As claim 1 has been amended to recite that the clot-reducing agent is defibrinogenic and a natural or synthetic reptile peptide, these rejections are submitted to have been overcome.

Pending claims 1-3, 9 and 12 also stand rejected under 35 U.S.C. §102(b) as anticipated by Schwartz et al. with respect to ancrod while noting that claim 1 as previously presented "does not describe the nature of these preconditions; therefore, any patient with preconditions may be the 'subject' in the claimed method. Furthermore, none of the claims particularly limits the location of administration of the clot-reducing agent." (Ibid., page 7, first full paragraph). Schwartz is specifically noted as teaching reducing restenosis in patients subsequent to angioplasty.

Based on the above amendments to independent claim 1 reciting with specificity not only the precondition of cerebral blood vessel hemorrhage but also maintaining the defibrinogenic clot-reducing agent within the cerebrospinal fluid of the subject, this rejection is likewise believed to have been overcome.

Lastly, all the pending claims stand rejected under 35 U.S.C. §103(a) over Naff et al. in view of Schwartz et al. As an initial matter with respect to this rejection, Applicant hereby affirms that the various claims were commonly owned at the time inventions covered by these claims were made. In light of the above amendments effectively excluding the urokinase of Naff et al. from the claimed subject matter as well as the above remarks delineating the nature of the precondition and the maintenance of the defibrinogenic clot-reducing agent within the cerebrospinal fluid, the prior art reference combination of Naff et al. and Schwartz et al. is submitted to be deficient.

For a case of *prima facie* obviousness to be found for chemical matter, "[i]n addition to structural similarity between the compounds, a prima facie case of obviousness also requires a showing of 'adequate support in the prior art' for the change in structure." Takeda Chem. Indus., Ltd. v. Alphapharm Pty, LTD, 83 USPQ2d 1169, 1174 (Fed. Cir. 2007). The court further made

expressly clear that "in order to find a prima facie case of unpatentability in such instances, a showing that the 'prior art would have suggested making the specific molecular modifications necessary to achieve the claimed invention' was also required." Id. (quoting In re Deuel, 51 F.3d 1552, 1558 (Fed. Cir. 1995) (internal references omitted). The court clarified that this test for chemical compounds is "consistent with the principles enunciated in KSR." Id. (citing KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007)).

The fact that both urokinase and ancrod were known to the art does not satisfy this standard. Additionally, as a molecule administered for a medical treatment involves a complex interaction and unforeseen potential complications, it is respectfully submitted that functional equivalency in the art of treating cerebrospinal injury is not met by the combination of Naff et al. and Schwartz et al.

In light of the above amendments and remarks, reconsideration and withdrawal of the rejection as to pending claims 1-3, 9, 12 and 24 being obvious under 35 U.S.C. §103(a) over Naff et al. in view of Schwartz et al. is respectfully requested.

Summary

With entry of this amendment, claims 1-3, 9, 12 and 24 remain pending in the application. Each of these claims is now believed to be in allowable form and directed to patentable subject matter. Reconsideration and withdrawal of the outstanding rejections and the passing of this application to allowance are requested. Should the Examiner have any suggestion as to how to improve the form of any of the pending claims, it is respectfully requested that the undersigned attorney in charge of this application be contacted at the telephone number given below to implement such suggestions.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180.

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Respectfully submitted,

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